

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

WILLIS JUNIOR GILL)	
Claimant)	
VS.)	
)	Docket No. 211,302
THE BOEING COMPANY)	
Respondent)	
AND)	
)	
AMERICAN MANUFACTURERS MUTUAL INS. CO.)	
Insurance Carrier)	

ORDER

Claimant appealed the November 20, 1997, Award entered by Administrative Law Judge John D. Clark. The Appeals Board heard oral argument on May 8, 1998, in Wichita, Kansas.

APPEARANCES

Claimant appeared by his attorney, Michael L. Snider of Wichita, Kansas. Respondent and its insurance carrier appeared by their attorney, Vaughn Burkholder of Wichita, Kansas. There were no other appearances.

RECORD AND STIPULATIONS

The Appeals Board considered the record and adopted the stipulations listed in the Administrative Law Judge's Award.

ISSUES

The Administrative Law Judge found claimant had failed to prove he suffered permanent injuries to his bilateral upper extremities while employed by the respondent. Claimant requests the Appeals Board to reverse that finding. Claimant contends he suffers from bilateral carpal tunnel syndrome (CTS) caused from the repetitive activities he had to perform while at work. Claimant, therefore, contends his disability is a whole body disability and he is entitled to permanent partial disability benefits of 70.2 percent based on work disability.

Respondent stipulated that claimant suffered injuries to his bilateral upper extremities while performing repetitive work activities for the respondent. However, respondent

contends claimant failed to present persuasive evidence to prove he suffered permanent impairment as a result of those injuries.

Accordingly, the only issue before the Appeals Board is the nature and extent of claimant's disability.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record, considering the briefs, and hearing arguments of the parties, the Appeals Board finds as follows:

Claimant was employed in sheet metal assembly for the respondent from November 9, 1984, to April 5, 1995. Claimant's last day worked was March 23, 1995. Respondent terminated claimant for excessive absenteeism effective April 5, 1995. Claimant was paid no temporary total disability benefits, and he does not make a claim for such benefits. The parties stipulated the respondent provided claimant with authorized medical in the amount of \$157.07. Claimant makes no claim for additional past medical expenses.

This case turns on whether claimant proved by a preponderance of the credible evidence that his work activities caused bilateral CTS which resulted in permanent functional impairment. Five physicians testified in this case, and the medical records of two more physicians were made a part of the record by stipulation on that issue.

The medical records of Hai Kim Truong, D.O., were admitted by stipulation. Claimant went on his own to Dr. Truong to request a leave of absence from work on March 29, 1995. The respondent sent claimant for examination treatment to John H. Rempel, M.D., a board-certified plastic and hand surgeon. Dr. Rempel saw claimant once on April 6, 1995. Dr. Truong referred claimant to Calvin G. Olmstead, M.D., a board-certified neurologist, who saw claimant once on April 17, 1995. Claimant's original attorney referred claimant for examination and evaluation to Ernest R. Schlachter, M.D., who saw claimant once on July 24, 1995. The medical records of Rizwan U. Hassan, M.D., were also admitted by stipulation. Dr. Hassan, on November 13, 1995, conducted nerve conductive tests (NCT), and electromyographic tests (EMG) on claimant which were positive for CTS. At claimant's current attorney's request, Lynn D. Ketchum, M.D., a board-certified plastic and hand surgeon, examined and evaluated claimant on January 16, 1997. Lastly, the Administrative Law Judge appointed orthopedic surgeon Robert A. Rawcliffe, Jr., M.D., to complete an independent medical examination of claimant. Dr. Rawcliffe saw claimant once on April 21, 1997.

Although Dr. Ketchum, who saw claimant at claimant's current attorney's request, diagnosed claimant with bilateral CTS and attributed the condition to claimant's work with the respondent; the Administrative Law Judge gave more weight to the opinions of Drs. Rempel, Olmstead, Schlachter, and Rawcliffe. Those physicians all found that claimant had not suffered permanent injury to his upper extremities. This conclusion was made because claimant's complaints and clinical findings did not correlate with the positive NCT. Based on those physicians' opinions, the Administrative Law Judge found claimant

had not proven he suffered a permanent injury. The Appeals Board agrees with the Administrative Law Judge's conclusion.

Furthermore, the Appeals Board agrees with the Administrative Law Judge's analysis of the evidence as set forth in the Award. The Appeals Board finds the Administrative Law Judge's Award sets out findings of fact and conclusions of law that are accurate and supported by the record. It is not necessary to repeat those findings and conclusions in this order. Therefore, the Appeals Board adopts the Administrative Law Judge's findings and conclusions as its own as if specifically set forth herein.

In conclusion, the Appeals Board finds the respondent stipulated that claimant had suffered an accidental injury that arose out of and in the course of his employment with the respondent. Additionally, the respondent stipulated it had furnished medical expenses for treatment of claimant's injuries in the sum of \$157.07. The Administrative Law Judge, however, denied claimant all compensation benefits. The Appeals Board finds the respondent should be ordered to pay the \$157.07 of authorized medical expense.

AWARD

WHEREFORE, it is the finding, decision, and order of the Appeals Board that Administrative Law Judge John D. Clark's Award dated November 20, 1997, should be, and is hereby, affirmed except respondent is ordered to pay authorized medical expenses of \$157.07.

Further, the Appeals Board adopts the Administrative Law Judge's order set out in his Award in regard to payment of court reporter fees.

IT IS SO ORDERED.

Dated this ____ day of May 1998.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Michael L. Snider, Wichita, KS
Vaughn Burkholder, Wichita, KS
John D. Clark, Administrative Law Judge
Philip S. Harness, Director